



DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

31 CFR Part 240

RIN 1530-AA22

Indorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of the Fiscal Service (Fiscal Service) of the Department of the Treasury (Treasury) is amending its regulations that govern the payment of checks drawn on the United States Treasury (Treasury checks). The amendments coincide with the development of Fiscal Service's enhanced check post payment processing system, which will provide Treasury check return information to financial institutions more quickly than today. Financial institutions will receive this information through their existing communication channels with the Federal Reserve Banks (FRBs), generally prior to the expiration of the time periods in which financial institutions must make Treasury check deposits available for withdrawal as prescribed by Regulation CC, Availability of Funds and Collection of Checks. Accordingly, Fiscal Service is amending its regulations so that, with certain exceptions, a financial institution will be liable if it pays a canceled Treasury check, also known as a payment over cancellation (POC), without waiting to receive the return information that would enable the financial institution to know the check has been canceled.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Background

Currently, when either Fiscal Service or a payment certifying agency puts a “stop payment” (also known as a “check stop”) on a Treasury check to cancel it, there is a possibility that the canceled check may still be paid. Fiscal Service or an agency may put a “stop payment” on a check payment because the payee submitted a check claim (i.e., claimed that the check was either lost or stolen), because the certifying agency realized the payment was incorrect, or because it was otherwise improper. When a canceled or “stopped” check is subsequently paid, this leads to what is known as a payment over cancellation (POC). POCs are improper payments, which can amount to \$100 million or more each year.

Fiscal Service is developing enhancements to its post payment processing system that will result in Treasury check return information being made available to financial institutions sooner than is the case today. With Fiscal Service’s current post payment processing system, several days often pass before Fiscal Service can provide information on Treasury check returns that the Federal Reserve Banks (FRBs) transmit to financial institutions through existing communication channels. The system enhancements will enable Fiscal Service to provide check return information to financial institutions through these existing channels within the time periods prescribed by Regulation CC, Availability of Funds and Collection of Checks (12 CFR part 229), for when a financial institution must make funds deposited by Treasury check available for withdrawal.

Under the current regulations at 31 CFR part 240, a financial institution generally is not liable for a POC if the institution has taken “reasonable efforts” to ensure the check is authentic.¹ The final rule amends the definition of “reasonable efforts” found at 31 CFR 240.2 to include a requirement that financial institutions wait for check return information within the

¹ “Authenticity” is a presentment guaranty, as described by 31 CFR 240.4.

time periods set out by Regulation CC to help verify that a Treasury check is valid² and authentic. It is also making conforming changes to 31 CFR part 240 to require that financial institutions ensure a Treasury check has not been canceled before making the funds associated with that check available for withdrawal.

In those instances where a financial institution has taken reasonable efforts but check return information for a POC on a properly presented check is not transmitted to the financial institution prior the funds availability timeframe specified in Regulation CC, the financial institution would not be liable for releasing the funds associated with the Treasury check. While Fiscal Service expects this circumstance to be uncommon, it understands that compliance with Regulation CC requires the release of the funds within certain timeframes, and thus under the final rule a financial institution will not be liable for a POC due to complying with Regulation CC. (Note, however, that this does not affect the presentment guarantees found in 31 CFR 240.4. As is currently the case, if Fiscal Service declines a check due to improper presentment and reverses the provisional credit, the presenting financial institution may still be liable for payment on the check regardless of Regulation CC's requirements.)

After enhancements to Treasury's post payment processing system have been implemented and the final rule's requirements become effective (no sooner than 30 days after publication of the final rule), the system and rule changes should greatly reduce payment issues involving Treasury checks and more closely align the treatment of canceled Treasury checks with industry practices for other canceled checks in the banking system. The changes will eliminate many POCs, because they will allow a certifying agency to place a "true stop" on a Treasury check. The system changes will also help reduce instances where a Treasury check (or an item purporting to be a Treasury check) may be charged back to the financial institution, because they will allow the financial institution to verify that the check is not counterfeit, that

² "Validity" and "valid check" are defined in the final rule. See section III.B., below.

the amount has not been altered, that the check is not stale-dated, and that the check has not been previously negotiated. For these non-POC circumstances, financial institutions are already liable for accepting such instruments. While the final rule does not impact a financial institution's liability in these other circumstances, Fiscal Service's enhanced post payment processing system will help financial institutions avoid the liability. Furthermore, in those instances where a financial institution does release the funds associated with a Treasury check prior to receiving the check return information, that financial institution has an increased likelihood of being able to recover those funds, because the return information will be available a short time after the funds are released (typically no more than a few days, as opposed to up to 18 months later if a reclamation following a check claim were to occur).

In addition to receiving check return information through existing channels, a financial institution may choose to obtain early notice regarding the validity and authenticity of Treasury checks by using the Fiscal Service's Treasury Check Verification System (TCVS). While financial institutions will not be required to use TCVS, the use of TCVS may allow financial institutions to catch canceled, duplicate, or other problematic checks at the time of presentment, as opposed to after presentment but before the financial institution makes deposited funds available for withdrawal. TCVS, in conjunction with the enhanced post payment system, will help financial institutions avoid accepting duplicate presentations, thus avoiding the associated liability. The enhancements to Treasury's post payment processing system will not eliminate acceptance of duplicate presentations entirely, but in those instances where the subsequent presentation of a Treasury check occurs after Treasury's records have been updated, TCVS will allow a financial institution to avoid liability by declining the previously negotiated Treasury check when presented again. TCVS will similarly be of assistance to financial institutions in identifying Treasury checks where the payment amount has been altered, as well as for counterfeit instruments purporting to be Treasury checks.

II. Response to Comments

During the comment period, Fiscal Service received nine comments on the notice of proposed rulemaking (NPRM) that was published on February 1, 2023 (88 FR 6674), from individuals and from the banking industry. The industry commenters supported Fiscal Service's effort to combat check fraud and to reduce POCs. However, some commenters also expressed concerns with aspects of the NPRM. As many of these comments addressed the same or similar issues, below we respond to these comments in the following categories:

- Required Use of TCVS,
- Financial Institution Liability for POCs,
- Presentment to Non-Financial Institutions,
- Communicate Check Cancellation Information to Federal Reserve Banks, and
- Reduce the Number of Treasury Checks.

A. Required Use of TCVS

A majority of the comments expressed concerns over the proposed requirement to use TCVS to verify that a Treasury check has not been canceled for a financial institution to avoid liability for a POC. Issues raised related to the required use of TCVS included: concerns regarding what would happen if TCVS is out of service when a financial institution attempts to verify a Treasury check; the amount of time required for tellers to manually verify a Treasury check using TCVS; unavailability of TCVS when Treasury checks are deposited remotely or by ATM; and the expense and time for financial institutions to implement technological upgrades or alterations of their systems to integrate the use of TCVS.

The final rule addresses these concerns by removing the requirement that a financial institution use TCVS to verify that a Treasury check has not been canceled to avoid liability for a POC. Instead, to avoid liability for a POC, and in alignment with comments received, the final rule allows a financial institution to rely on the check return information that it already receives through the FRBs' established channels of communication. Fiscal Service's enhanced post payment processing system will enable the FRBs to provide check return information on a

properly presented Treasury check to the financial institution within the timeframes prescribed by Regulation CC for making funds from a deposited Treasury check available for withdrawal. The financial institution will not be required to make changes to its check processing system to receive the check return information from the FRBs because the information will move through existing communication channels.

Although the use of TCVS is not required under the final rule, TCVS will still be available for financial institutions to voluntarily obtain information regarding the status of a Treasury check. In addition to giving financial institutions early notice of check cancellation information, TCVS may assist financial institutions in reducing the risk of liability for counterfeit instruments and duplicate presentations of Treasury checks.

B. Financial Institution Liability for POCs

Several commenters expressed concern over the shift in liability to financial institutions for POCs on Treasury checks. Some of these concerns were tied to issues arising from the requirement to use TCVS to avoid liability and, thus, have been resolved because the final rule does not contain such a requirement (see preceding section 2.A.). The approach under the final rule to avoid liability for a POC on a Treasury check instead relies on the FRBs' existing channels of communication for check return information. The onus is on Fiscal Service's post payment processing system to provide the check return information to the FRBs in an accelerated fashion, so that financial institutions may receive this information from the FRBs within the timeframes prescribed by Regulation CC for making funds deposited by Treasury check available for withdrawal.

However, other commenters expressed concerns regarding the shift in liability for POCs that were not related to the use of TCVS. Fiscal Service believes that because (1) the enhanced post payment system will make check return information available on an accelerated basis compared to today, and (2) financial institutions will receive information confirming that a Treasury check has been canceled through existing communication channels, it is not

unreasonable for financial institutions to accept liability for POCs. Further, this shift in liability will bring the processing of Treasury checks more in alignment with the processing of checks generally, where the liability for releasing funds on a canceled non-Treasury check falls on the financial institution accepting the check. A financial institution may avoid this liability by not making the funds associated with a Treasury check available for withdrawal until the financial institution receives the check return information from an FRB, provided that it receives notice of a POC prior to the expiration of the Regulation CC funds availability time periods. Additionally, in those instances where the return information is unavailable for the financial institution to verify the status of a properly presented Treasury check before the financial institution is required to release the funds under Regulation CC, the financial institution will not be liable if the release of funds necessary to comply with Regulation CC results in a POC.

C. Presentment to Non-Financial Institutions

A few commenters raised the issue of how the proposed rule and its shift in liability for POCs would operate in conjunction with Treasury checks presented to businesses that cash checks that are not financial institutions, and the financial institutions that service them. One commenter pointed out that the NPRM did not address whether the agreements between these businesses and financial institutions could continue to address how the liability for POCs would be assigned. The final rule is silent on that issue and is not intended to alter the ability of entities entering into such agreements to assign liability for POCs or otherwise declined checks. To the extent that such assignment of liability is allowable by other applicable laws and rules, the final rule does not affect these entities' ability to negotiate such agreements. However, such agreements will have no impact on financial institutions' liability due to POCs on Treasury checks with regard to the Federal Government, as described by the final rule.

To the extent that commenters identified concerns with the unavailability of TCVS in situations where businesses that are not financial institutions cash Treasury checks, the final rule addresses those concerns by removing the requirement to use TCVS to avoid liability for a POC

on a Treasury check.

D. Communicate Check Cancellation Information to Federal Reserve Banks

A few commenters suggested that a better method for addressing POCs, rather than require the use of TCVS by financial institutions, would be to communicate the check cancellation information to the FRBs' check processing system and have the system communicate this information to financial institutions with the FRBs' check return information. These commenters pointed out this approach would not require financial institutions to modify their check processing systems to accommodate the required use of TCVS, would work with the financial institutions' current systems, and would entail little or no cost to the financial institutions.

Consistent with these comments, under the final rule, financial institutions will continue to receive check return information from the FRB check processing system's existing channels of communication, as they currently do. The enhancements to Fiscal Service's post payment processing system will enable Fiscal Service to communicate check information to the FRBs more quickly, including the information that a Treasury check has been canceled. Financial institutions do not need to make any changes to continue receiving this information from the FRB's check processing system; the information will simply be available more rapidly through the channels already in use.

Two commenters suggested that the FRBs should provide this check cancellation information to the financial institution of first deposit, rather than the presenting financial institution. This suggestion is out of scope and nonviable at this time because of the changes that would be required of the FRBs' check processing system (and possibly of the financial institutions receiving the cancellation information). However, Fiscal Service is receptive to considering this possibility at a later date. In the meantime, although not required, financial institutions of first deposit can use TCVS to help reduce their risk of liability for POCs prior to receiving the check return information through existing communication channels.

E. Reduce the Number of Treasury Checks

One commenter pointed out that an effective method of reducing POCs is to reduce the number of Treasury checks issued in the first place and that Fiscal Service should educate payment-issuing agencies regarding the benefits of electronic payments. Fiscal Service agrees that reducing the number of checks issued for Federal payments is a worthy objective. Fiscal Service has long worked with Federal agencies to reduce the number of checks they issue and to make payments electronically. For more than a decade, the number of Treasury checks issued each year has generally declined, from approximately 170 million in 2012, for example, to approximately 45 million in fiscal year 2023.

Despite the effort to reduce the number of Treasury checks issued, Treasury checks will continue to be issued for the foreseeable future (although in reduced numbers). Additionally, although 31 U.S.C. 3332 requires most Federal payments to be made electronically, this provision does not apply to payments made pursuant to the Internal Revenue Code. Within these limitations, Fiscal Service fully supports and actively works to promote the continued decrease in the number of Treasury checks issued each year.

III. Summary of Proposed Rule Changes

A. Amendment to the Definition of, and Guarantee Regarding, “Reasonable Efforts”

Part 240 currently includes a presentment guarantee, made by the guarantor of a check presented to Treasury for payment, that the guarantor has made all reasonable efforts to ensure that the check is an authentic Treasury check and not a counterfeit check. The existing definition of “reasonable efforts” focuses on the watermark or other security features of a security check, to ensure that the Treasury check is authentic and not counterfeit. The final rule amends the definition of “reasonable efforts” to add the requirement of verifying not only the Treasury check’s authenticity, but also the check’s validity, by requiring a financial institution to receive the check return information before making funds from a Treasury check available for withdrawal to ensure that the check has not been canceled. An exception to this requirement will

apply if the check's return information is not transmitted to the financial institution prior the appropriate funds availability timeframe specified in Regulation CC, and the financial institution must make the funds available for withdrawal in order to remain in compliance with Regulation CC. In such cases, the financial institution would not be held liable for releasing the funds associated with the Treasury check if it results in a POC (unless the financial institution is otherwise subject to liability under the presentment guarantees found in § 240.4).

A corresponding amendment to the presentment guarantees found in current regulations would change the guarantee of Treasury check's authenticity to include a presentment guarantee regarding the check's validity as well, as described below.

B. Adding a Definition of "Validity"

Part 240 had not previously included a definition of "validity." The final rule adds a definition of "validity" or "valid check" as proposed.

The definition describes a valid Treasury check as a payable instrument (i.e., not a counterfeit check, as defined in the existing regulations) that has not been previously negotiated or canceled (i.e., meets the criteria for negotiability). A corresponding amendment to the presentment guarantees would add a new presentment guarantee regarding the check's validity.

C. Adding a Definition of "Cancellation" or "Canceled"

Part 240 had not previously defined "cancellation" or "canceled" with regard to a Treasury check. The final rule adds a definition of "cancellation" or "canceled" as proposed.

This definition describes a canceled Treasury check as one that was once a valid and negotiable instrument, but is no longer due to a reason other than the Treasury check's negotiation. A Treasury check may be canceled because it has limited payability (i.e., it is older than one year past its issuance date, and thus stale-dated), or because Treasury or the certifying agency has placed a "stop payment" (as defined below) on it.

D. Adding a Definition of "Stop Payment"

The regulations had not previously defined a "stop payment" with regard to a Treasury

check. The final rule adds a definition of this term as proposed.

This definition describes the situation where Treasury or the certifying agency has indicated in its systems that an authentic Treasury check should not be paid. Reasons for issuing a stop payment on a Treasury check include that the Treasury check has been reported lost or stolen, it has been issued to a deceased payee, or it was discovered to be improper. Once a stop payment has been placed on a Treasury check, the check has been canceled and is no longer a valid Treasury check (even though it is an authentic Treasury check).

E. Amendment to the Processing of Checks, Declination, and the Reasons for Refusal

Current Treasury regulations require that an FRB cash a Treasury check presented to it, except in certain circumstances where the FRB must instead refuse to pay the Treasury check. The check must be refused if (1) the check bears a material defect or alteration, (2) the check was presented more than one year later than the check's date of issuance, or (3) the FRB has been notified by Treasury, pursuant to Treasury regulations, that a check was issued to a deceased payee. As proposed, the final rule adds a fourth circumstance in which an FRB must refuse to pay a Treasury check: when Treasury has notified the FRB that a Treasury check is not valid.

As noted above, under this definition, a Treasury check is invalid if the Treasury check is counterfeit, previously negotiated, or canceled.

A corresponding amendment to the regulation regarding Treasury's right of first refusal is the instruction for Treasury to decline payment of a Treasury check when Treasury is being requested to make payment on a check that is not valid.

IV. Section-by-Section Analysis

A. Section 240.2 – Definitions

The final rule amends the definitions section of part 240, found at 31 CFR 240.2, by removing the lettering within that section (the list letters (a), (b), (c), etc.), and simply listing the terms in alphabetical order within the section. This comports with the Office of the Federal Register's recommendation for a list of definitions found in regulations, as stated in section 2-13

of the Document Drafting Handbook. This change also removes the need to re-letter the list of definitions when new definitions are added to the list.

For the reasons set forth above, the final rule amends § 240.2 to revise the definition of “reasonable efforts”; add the definition of “cancellation” or “canceled”; add the definition of “stop payment” or “check stop” or “stop”; and add the definition of “validity” or “valid check.” Except for these four definitions, none of the definitions in § 240.2 are being substantively changed. These other definitions are listed herein only to reflect the removal of the list lettering schema and a few minor changes made for clarity.

B. Section 240.4 – Presentment guarantees.

The final rule amends the presentment guarantees to include a guarantee that the guarantor has made reasonable efforts to ensure that the check is an authentic Treasury check and that it is valid at the time of acceptance.

C. Section 240.6 – Provisional credit; first examination; declination; final payment.

The final rule amends the reasons that Treasury will decline a Treasury check upon first examination to include the fact that the check has been canceled, in addition to when the check has already been paid.

D. Section 240.12 – Processing of checks.

The final rule amends the reasons that an FRB must refuse payment of a Treasury check to include circumstances where the FRB has been notified that the Treasury check has been canceled or is otherwise not valid.

V. **Procedural Analysis**

Regulatory Planning and Review

The rule does not meet the criteria for a “significant regulatory action” as defined in Executive Order 12866, as amended. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and identify alternatives that may reduce such impact, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. In the NPRM published on February 1, 2023, Fiscal Service certified that the final rule will not have a significant economic impact on a substantial number of small entities.

Fiscal Service received some comments from the entities in the banking industry stating that requiring financial institutions to use TCVS prior to negotiating a Treasury check would place burdens on these entities by necessitating changes and upgrades to their check processing systems. In the final rule, the requirement in the NPRM to use TCVS has been eliminated. Instead, financial institutions will receive check return information for a properly presented Treasury check from the FRBs, through existing communication channels. Due to enhancements to Fiscal Service’s post payment processing system, this check return information typically will be provided to financial institutions within the time periods for making funds available prescribed by Regulation CC. In the uncommon instances where a financial institution does not receive the return information within the appropriate time period, and must release the funds to comply with Regulation CC, the financial institution will not be held liable if that results in a POC (unless the financial institution would otherwise be subject to liability due to the presentment guarantees in § 240.4).

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of

regulatory alternatives before promulgating the rule. Fiscal Service has determined that this final rule will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

List of Subjects in 31 CFR Part 240

Authenticity, Canceled, Cancellation, Check, Check return, Check return information, Check stop, Declination, Financial institutions, Presentment, Presentment guarantees, Processing, Reasonable efforts, Stop, Treasury check, Valid check, Validity, Verification.

For the reasons set out in the preamble, we amend 31 CFR part 240 as follows:

PART 240 – INDORSEMENT AND PAYMENT OF CHECKS DRAWN UPON THE UNITED STATES TREASURY

1. The authority citation for part 240 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 321, 3327, 3328, 3331, 3334, 3343, 3711, 3712, 3716, 3717; 32 U.S. 234 (1947); 318 U.S. 363 (1943).

2. Revise § 240.2 to read as follows:

§ 240.2 Definitions.

Administrative offset or *offset*, for purposes of this part, has the same meaning as defined in 31 U.S.C. 3701(a)(1) and 31 CFR part 285.

Agency means any agency, department, instrumentality, office, commission, board, service, or other establishment of the United States authorized to issue Treasury checks or for which checks drawn on the United States Treasury are issued.

Cancellation or *canceled* means that a Treasury check is no longer a valid instrument, due to the one-year limitation on negotiability and payment described in § 240.5(a), or the placement of a stop payment on the check by Treasury or the certifying agency.

Certifying agency means an agency authorizing the issuance of a payment by a disbursing official in accordance with 31 U.S.C. 3325.

Check or checks means an original check or checks; an electronic check or checks; or a substitute check or checks.

Check payment means the amount paid to a presenting bank by a Federal Reserve Bank.

Counterfeit check means a document that purports to be an authentic check drawn on the United States Treasury, but in fact is not an authentic check.

Days means calendar days. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or Federal holiday; the first day is not included. For example, if a reclamation was issued on July 1, the 90-day protest period under § 240.9(b) would begin on July 2. If the 90th day fell on a Saturday, Sunday, or Federal holiday, the protest would be accepted if received on the next business day.

Declination means the process by which Treasury refuses to make final payment on a check, i.e., declines payment, by instructing a Federal Reserve Bank to reverse its provisional credit to a presenting bank.

Declination date means the date on which Treasury issues the declination.

Disbursing official means an official, including an official of the Department of the Treasury, the Department of Defense, any Government corporation (as defined in 31 U.S.C. 9101), or any official of the United States designated by the Secretary of the Treasury, authorized to disburse public money pursuant to 31 U.S.C. 3321 or another law.

Drawer's signature means the signature of a disbursing official placed on the front of a Treasury check as the drawer of the check.

Electronic check means an electronic image of a check drawn on the United States Treasury, together with information describing that check, that meets the technical requirements for sending electronic items to a Federal Reserve Bank as set forth in the Federal Reserve Banks' operating circulars.

Federal Reserve Bank means a Federal Reserve Bank or a branch of a Federal Reserve Bank.

Federal Reserve Processing Center means a Federal Reserve Bank center that images Treasury

checks for archiving check information and transmitting such information to Treasury.

Financial institution means:

- (1) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);
- (2) Any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);
- (3) Any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);
- (4) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or any credit union which is eligible to make application to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);
- (5) Any savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) which is an insured depository institution (as defined in such Act) (12 U.S.C. 1811 et seq.) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.); and
- (6) Any financial institution outside of the United States if it has been designated by the Secretary of the Treasury as a depository of public money and has been permitted to charge checks to the General Account of the United States Treasury.

First examination means Treasury's initial review of a check that has been presented for payment. The initial review procedures, which establish the authenticity and integrity of a check presented to Treasury for payment, may include reconciliation; retrieval and inspection of the check or the best available image thereof; and other procedures Treasury deems appropriate to specific circumstances.

Forged or unauthorized drawer's signature means a drawer's signature that has been placed on the front of a Treasury check by a person other than:

- (1) A disbursing official; or
- (2) A person authorized to sign on behalf of a disbursing official.

Forged or unauthorized indorsement means:

- (1) An indorsement of the payee's name by another person who is not authorized to sign for the payee; or
- (2) An indorsement of the payee's name made by another person who has been authorized by the payee, but who has not indorsed the check in accordance with §§ 240.4 and 240.13 through 240.17; or
- (3) An indorsement added by a financial institution where the financial institution had no authority to supply the indorsement; or
- (4) A check bearing an altered payee name that is indorsed using the payee name as altered.

Guarantor means a financial institution that presents a check for payment and any prior indorser(s) of a check.

Master Account means the record of financial rights and obligations of an account holder and the Federal Reserve Bank with respect to each other, where opening, intraday, and closing balances are determined.

Material defect or alteration means:

- (1) The counterfeiting of a check; or
- (2) Any physical change on a check, including, but not limited to, a change in the amount, date, payee name, or other identifying information printed on the front or back of the check (but not including a forged or unauthorized drawer's signature); or
- (3) Any forged or unauthorized indorsement appearing on the back of the check.

Minor means the term minor as defined under applicable State law.

Monthly statement means a statement prepared by Treasury that includes the following information regarding each outstanding reclamation:

- (1) The reclamation date;
- (2) The reclamation number;
- (3) Check identifying information; and
- (4) The balance due, including interest, penalties, and administrative costs.

Original check means the first paper check drawn on the United States Treasury with respect to a particular payment transaction.

Payee means the person that the certifying agency designated to receive payment pursuant to 31 U.S.C. 3528.

Person means an individual, institution, including a financial institution, or any other type of entity; the singular includes the plural.

Presenting bank means:

- (1) A financial institution which, either directly or through a correspondent banking relationship, presents checks to and receives provisional credit from a Federal Reserve Bank; or
- (2) A depository which is authorized to charge checks directly to Treasury's General Account and present them to Treasury for payment through a designated Federal Reserve Bank.

Provisional credit means the initial credit provided to a presenting bank by a Federal Reserve Bank. Treasury may reverse a provisional credit until Treasury deems completion of first examination or final payment made pursuant to § 240.6(d).

Reasonable efforts means, at a minimum:

- (1) Confirming the validity of a check by obtaining the check return information prior to making the funds from the check available for withdrawal (except when the check return information has not been provided within the applicable timeframe prescribed by Regulation CC,

and making funds available for withdrawal is necessary to comply with Regulation CC; however, this exception does not apply if the presenting bank is otherwise subject to liability due to the presentment guarantees found in § 240.4); and

(2) Confirming the authenticity of the check such as by verifying the existence of the Treasury watermark on an original check.

(3) Acceptance of a check by electronic image or other non-physical means does not impact reasonable efforts requirements. Based upon the facts at hand, including whether a check is an original check, a substitute check, or an electronic check, reasonable efforts may require the verification of other security features.

Reclamation means a demand for the amount of a check for which Treasury has requested an immediate refund.

Reclamation date means the date on which Treasury issues a reclamation. Normally, Treasury sends demands to presenting banks or other indorsers within two business days of the reclamation date.

Reclamation debt means the amount owed as a result of Treasury's demand for refund of a check payment, and includes interest, penalties and administrative costs assessed in accordance with § 240.8.

Reclamation debtor means a presenting bank or other indorser of a check from whom Treasury has demanded a refund in accordance with §§ 240.8 and 240.9. The reclamation debtor does not include a presenting bank or other indorser who may be liable for a reclamation debt, but from which Treasury has not demanded a refund.

Recurring benefit payment includes but is not limited to a payment of money for any Federal Government entitlement program or annuity.

Stop payment means that Treasury or a certifying agency has indicated that a Treasury check should not be paid and instead should be canceled. A stop payment could be placed on a Treasury check for reasons including that the check was reported lost or stolen; the check was

determined to have been issued improperly; the payee was deceased prior to the issuance of the check; or any other allowable reason.

Substitute check means a paper reproduction of a check drawn on the United States Treasury that meets the definitional requirements set forth at 12 CFR 229.2(aaa).

Treasury means the United States Department of the Treasury, or when authorized, an agent designated by the Secretary of the Treasury or his or her delegee.

Treasury Check Offset means the collection of an amount owed by a presenting bank in accordance with 31 U.S.C. 3712(e).

Truncate means to remove a paper check from the forward collection or return process and send to a recipient, in lieu of such paper check, a substitute check or an electronic check.

U.S. securities means securities of the United States and securities of Federal agencies and Government corporations for which Treasury acts as the transfer agent.

Validity or *valid check* means an authentic Treasury check that is a payable instrument and has not been previously negotiated or canceled.

Writing includes electronic communications when specifically authorized by Treasury in implementing instructions.

3. Amend § 240.4 by revising paragraph (d) to read as follows:

§ 240.4 Presentment guarantees.

* * * * *

(d) *Authenticity and validity.* That the guarantors have made all reasonable efforts to ensure that a check is both an authentic Treasury check (i.e., it is not a counterfeit check) and a valid Treasury check (i.e., it has not been previously negotiated or canceled).

* * * * *

4. Amend § 240.6 by revising paragraph (c)(3) to read as follows:

§ 240.6 Provisional credit; first examination; declination; final payment.

* * * * *

(c) * * *

(3) Treasury has already received presentment of a substitute check, electronic check, or original check relating to the check being presented, such that Treasury is being requested to make payment on a check it has already paid; or Treasury is being requested to make payment on a check that is not valid due to a stop payment or other cancellation.

* * * * *

5. Amend § 240.12 by revising paragraphs (a)(1)(ii) and (iii) and adding paragraph (a)(1)(iv) to read as follows:

§ 240.12 Processing of checks.

(a) * * *

(1) * * *

(ii) A check was issued more than one year prior to the date of presentment;

(iii) The Federal Reserve Bank has been notified by Treasury, in accordance with § 240.15(c), that a check was issued to a deceased payee; or

(iv) The Federal Reserve Bank has been notified by Treasury that a check is not valid.

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David A. Lebryk,

Fiscal Assistant Secretary.

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